

Tuesday, March 7, 2006

The Board met at its offices at 5901 Green Valley Circle, Culver City, at 9:30 a.m., with Mr. Parrish, Vice Chair, Ms. Yee and Mr. Leonard present, Ms. Mandel present on behalf of Mr. Westly in accordance with Government Code section 7.9.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS

William Logue, 303404

1997, \$631.00 Tax, \$141.00 Late Filing Penalty

For Appellant:

William Logue, Taxpayer

For Franchise Tax Board:

Jozel Brunett, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the Board has jurisdiction to consider appellant's appeal for relief from the late filing penalty, and if so, has appellant established either reasonable cause for his untimely filing or that the penalty should be abated due to financial hardship.

Whether respondent abused its discretion in failing to abate interest accrued on appellant's liability.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 3.1)

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board submitted the appeal for decision.

Exhibits to these minutes are incorporated by reference.

Steve Wachko, 301335

1999, \$1,779.00 Claim for Refund

For Claimant:

Joyce Rebhun

Steve Wachko, Taxpayer

Winnifred Wachko, Taxpayer

For Franchise Tax Board:

Diane Ewing, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether appellant has shown that the denial of a refund claim was erroneous.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 3.2)

Action: Upon motion of Mr. Leonard, seconded by Ms. Yee and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board ordered that the appeal be submitted for decision, granting the appellant 30 days to submit supporting documents, the Franchise Tax Board 30 days to respond, and the Appeals Division 30 days thereafter to review the appellant's supporting documents, the Franchise Tax Board's response and provide its recommendation to the Board.

Eugene Poats, 305198

1998, \$977.00 Assessment

For Appellant:

Eugene Poats, Taxpayer

For Franchise Tax Board:

Diane Ewing, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

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Issue: Whether appellant has shown that respondent incorrectly calculated appellant's additional tax liability, based on information it received from the Internal Revenue Service indicating that appellant underreported his income.

Action: Upon motion of Ms. Mandel, seconded by Mr. Leonard and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board submitted the appeal for decision.

Kenneth A. Sauer and Eliza B. Sauer, 308089

1999, \$2,207.00 Tax, \$451.73 Late Filing Penalty

For Appellant: Kenneth Sauer, Taxpayer

For Franchise Tax Board: Mark McEvilly, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellants have met their burden to prove error in the proposed assessment.

Whether a frivolous appeal penalty should be imposed.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 3.3)

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board submitted the appeal for decision.

Nancy Schultz, 288572

1997, \$9,703.83 Claim for Refund

1998, \$4,377.68 Claim for Refund

For Claimant: Steven G. Hoover, Attorney

Nancy Schultz, Taxpayer

For Franchise Tax Board: Dennis Haase, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether appellant timely filed her claims for refund prior to the expiration of the statute of limitations.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 3.4)

Action: Mr. Parrish moved to sustain the action of the Franchise Tax Board and that a letter be sent to the California Victim Compensation and Government Claims Board recommending favorable consideration of the request for relief filed by the taxpayer in the amounts of \$3,784.49 for the year 1997 and \$1,663.52 for the year 1998. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Yee and Ms. Mandel voting no, Mr. Chiang absent.

Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board submitted the appeal for decision.

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Paul L. Casanova and Barbara Joan Casanova, 289775

1998, \$9,091.00 Assessment

1999, \$8,504.00 Assessment

For Appellant:

Alan K. Rubin, CPA

Paul L. Casanova, Taxpayer

For Franchise Tax Board:

Raul Escatel, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether respondent properly disallowed appellants' deduction for investment interest and properly limited appellants' deduction of home mortgage interest.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 3.5)

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board ordered that the appeal be submitted for decision, granting the appellant 30 days to submit supporting documents, the Franchise Tax Board 30 days to respond, and the Appeals Division 30 days thereafter to review the appellant's supporting documents, the Franchise Tax Board's response and provide its recommendation to the Board.

Issam I. Kort, 301572

1993, \$23,082.00 Claim for Refund

For Claimant:

Issam Kort, Taxpayer

For Franchise Tax Board:

Diane Ewing, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellant has shown that there has been an overpayment of tax which may be refunded to him.

Whether appellant's 1993 California tax liability has been discharged in a bankruptcy court proceeding, and whether the Board of Equalization has jurisdiction to determine such a discharge occurred.

Whether respondent should be estopped from denying the refund claim because of alleged oral misrepresentations by one of its employees regarding bankruptcy filings and tax liabilities.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 3.6)

Respondent's Exhibit: Miscellaneous Documents (Exhibit 3.7)

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board submitted the appeal for decision.

Alex H. Farzami and Jennifer Farzami, 308193

1999, \$18,203.00 Assessment

2000, \$8,412.00 Assessment

For Appellant:

Alex H. Farzami, Taxpayer

Joyce Rebhun, Representative

For Franchise Tax Board:

Raul Escatel, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

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Issue: Whether cash advances from a corporation to its sole shareholder used to invest in mutual funds are properly characterized as constructive dividends and served a legitimate corporate purpose.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board submitted the appeal for decision.

The Board recessed at 11:34 a.m. and reconvened at 11:45 a.m. with Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel present.

Stephen D. Moses, 268510

1992, \$61,657.00 Tax, \$15,414.25 Late Filing Penalty

For Appellant:

Stephen D. Moses, Taxpayer

Stuart A. Simon, Attorney

For Franchise Tax Board:

Renel Sapiandante, Tax Counsel

Jozel Brunet, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the Board has jurisdiction to hear appellant's appeal of the Franchise Tax Board's (respondent) denial of his request for the Tax Amnesty Program.

Whether respondent correctly determined the amount of gain properly allocated by the partnerships to appellant for the 1992 tax year.

Whether respondent correctly determined that appellant is not entitled to offset nonpassive income with passive losses claimed for 1992.

Whether respondent correctly determined that appellant had a net gain, and not a loss, from the disposition of passive activities in 1992 and, therefore, that Internal Revenue Code section 469(g) was inapplicable.

Whether respondent properly determined that appellant has not shown reasonable cause for abatement of the late filing penalty.

Whether the Board may waive the penalty imposed for appellant's failure to participate in the tax amnesty program.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 3.8)

Respondent's Exhibit: Miscellaneous Documents (Exhibit 3.9)

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board submitted the appeal for decision.

The Board recessed at 12:30 p.m. and reconvened at 1:50 p.m. with Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel present.

Danny L. Williams, 257711

1999, \$1,317.00 Assessment

For Appellant:

Danny L. Williams, Taxpayer

For Franchise Tax Board:

Diane Ewing, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellant has met his burden to prove error in the proposed assessment.

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Whether this Board is the proper forum for disputing a frivolous return penalty.
Whether respondent abused its discretion in refusing to abate interest.
Whether a frivolous appeal penalty should be imposed.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 3.10)

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board submitted the appeal for decision.

Michael E. Hodsdon, 305183

2001, \$1,859.00 Assessment, \$464.75 Late Filing Penalty

For Appellant: Michael Hodson, Taxpayer

For Franchise Tax Board: Jozel Brunett, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellant has met his burden to prove error in the proposed assessment.
Whether appellant has shown reasonable cause for relief from the late filing penalty.

Whether a frivolous appeal penalty should be imposed.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 3.11)

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board submitted the appeal for decision.

Shawanda Mann, 307168

2001, \$604.80 Claim for Refund

2002, \$695.52 Claim for Refund

2003, \$669.00 Claim for Refund

For Appellant: Shawanda Mann, Taxpayer

For Franchise Tax Board: Kathleen Cooke, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed

Issue: Whether appellant is entitled to the Child and Dependent Care Expenses Credit for 2001, 2002, and 2003, pursuant to Revenue and Taxation Code section 17052.6, which incorporates by reference Internal Revenue Code section 21 (as added in 2000)

Appellant's Exhibit: Miscellaneous Documents (Exhibit 3.12)

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board submitted the appeal for decision.

Christopher Gyorgy, 282946

2001, \$2,046.00 Tax, \$511.50 Late Filing Penalty

For Appellant: Peymon Mottahedeh, Representative

For Franchise Tax Board: Mark McEvilly, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellant has met his burden to prove error in the proposed assessment.
Whether appellant has shown reasonable cause for relief from the late filing penalty.

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Whether a frivolous appeal penalty should be imposed.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board submitted the appeal for decision.

Steven R. Nicholas, 306724

2001, \$4,165.00 Tax, \$1,041.25 Notice and Demand Penalty, \$1,041.25 Late Filing Penalty

For Appellant: Peymon Mottahedeh, Representative

For Franchise Tax Board: Dennis Haase, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellant has demonstrated any error in respondent's proposed assessment for 2001.

Whether a frivolous appeal penalty should be imposed.

Action: Upon motion Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board submitted the appeal for decision.

David C. Claunch, 281451

1999, \$10,888.00 Tax, \$2,722.00 Late Filing Penalty

For Appellant: Peymon Mottahedeh, Representative

For Franchise Tax Board: Mark McEvilly, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellant has demonstrated error in respondent's proposed assessment.

Whether appellant has shown reasonable cause so that the late filing penalty should be abated.

Whether a frivolous appeal penalty should be imposed against appellant.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board submitted the appeal for decision.

Byron Reynolds, 267947

1999, \$2,153.00 Tax, \$1,452.75 Penalties

For Appellant: Byron Reynolds, Taxpayer

For Franchise Tax Board: Jozel Brunett, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether appellant has shown error in respondent's determination of his underlying tax for 1999.

Whether appellant has shown that the failure to file penalty imposed by respondent should be abated.

Whether appellant has shown that the demand penalty imposed by respondent should be abated.

Whether a frivolous appeal penalty should be imposed against appellant.

Whether the Board has jurisdiction to consider appellant's appeal from respondent's imposition of a frivolous return penalty.

Appellant's Exhibit: Miscellaneous Documents (Exhibit 3.13)

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Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board submitted the appeal for decision.

SPECIAL TAXES APPEALS HEARINGS

Inland 99 Cents Wholesale, Inc., 236805 (ET)

8-1-00 to 3-31-02, \$15,790.50 Tax, \$3,928.05 Negligence Penalty

For Petitioner:

Samuel B. Choi, CPA

Pung Gil Lee, Taxpayer

For Property and Special Taxes Department: Monica Brisbane, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether petitioner has established that certain cigarettes were stolen, lost, or damaged, and thus the determination issued by the Excise Taxes Division and Special Taxes Department is excessive.

Whether the 10-percent penalty for negligence is applicable to this determination.

Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board ordered that the petition be submitted for decision.

The Board recessed at 3:27 p.m. and reconvened at 3:37 p.m. with Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel present.

Kretek International, Inc., 253847 (ET)

1-1-01 to 12-31-01, \$113,864.00 Fee

For Petitioner:

Eugene Paolino, Attorney

For Property and Special Taxes Department: Monica Brisbane, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether petitioner is liable for the administrative fee imposed by Business and Professions Code section 22979.2.

Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board ordered that the petition be submitted for decision.

LEGAL APPEALS MATTERS, CONSENT

The Board deferred consideration of the following matter: *Embroidertex West Ltd.*, 237064.

With respect to the Legal Appeals Matters Consent Agenda, upon a single motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board made the following orders:

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Western Web Printing, Inc., 184337 (GH)

3-1-98 to 9-30-01, \$13,830.53 Tax

Action: Deny the petition for rehearing as recommended by the Appeals Division.

Embroidertex West Ltd., 237064 (AS)

7-1-99 to 9-30-02, \$8,044.29 Tax, \$798.83 Finality Penalty

Action: The Board deferred consideration of this matter.

Michael A. Olin and Janis G. Olin, 252307 (UT)

November 10, 2001, \$10,050.64 Tax, \$00.00 Failure to File Penalty

Action: Redetermine as recommended by the Appeals Division.

William Earl Downing, 246515 (AA)

7-1-00 to 6-30-03, \$8,773.81 Tax, \$2,527.00 Failure to File Penalty

Action: Redetermine as recommended by the Appeals Division.

Jay L. Johnson Maintenance, Inc., 238356 (EH)

4-1-99 to 3-31-02, \$71,691.78 Tax

Action: Redetermine as recommended by the Appeals Division.

Richard Marshall Fine Floor, 217899 (AS)

7-5-95 to 6-30-02, \$00.00 Tax, \$00.00 Failure to File Penalty

Action: Redetermine as recommended by the Appeals Division.

Paul J. Henneberry, 236469 (AA)

7-1-01 to 3-31-02, \$37,306.00

Action: Redetermine as recommended by the Appeals Division.

Trademark Construction Company, Inc., 259552 (FHA)

1-1-01 to 9-30-02, \$67,100.26 Tax, \$00.00 Negligence Penalty

Action: Redetermine as recommended by the Appeals Division.

David & Rite Way, Inc., 333194 (AA)

August 25, 2005 Notice of Seizure and Forfeiture, \$155.74 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Ty Tang and Huong N. Tritang, 332149 (AA)

July 5, 2005 Notice of Seizure and Forfeiture, \$1,577.80 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Kochai Farhad, 331604 (EA)

July 18, 2005 Notice of Seizure and Forfeiture, \$1,717.13 Approximate Value

Action: Determined that staff properly seized the tobacco products.

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A-1 Liquor & Market Corporation, Inc., 333006 (AC)

July 20, 2005 Notice of Seizure and Forfeiture, \$322.88 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Linda Han, 332099 (EA)

July 18, 2005 Notice of Seizure and Forfeiture, \$148.50 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Osama Nemri, 333898 (EH)

July 27, 2005 Notice of Seizure and Forfeiture, \$2,259.81 Approximate Value

Action: Determined that staff properly seized the tobacco products.

Cimitrio Ambriz Cervantes and Jose Henry Gaeta, 333189 (AR)

August 19, 2005 Notice of Seizure and Forfeiture, \$1,022.00 Approximate Value

Action: Determined that staff properly seized the tobacco products.

CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT

The Board deferred consideration of the following matter: *Loran Jay Forbes*, 299082.

With respect to the Corporate Franchise and Personal Income Tax Matters Consent Agenda, upon a single motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board made the following orders:

Mertistine Bass, 310912

2003, \$1,225.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Odysseus Berouklis, Jr., 301349

1999, \$3,075.82 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Steve A. Dent, 306354

2001, \$323.00 Tax, \$64.60 Accuracy Related Penalty

Action: Sustain the action of the Franchise Tax Board.

Edward R. Fisher, 299010

2000, \$3,906.76 Claim for Refund

2001, \$3,576.00 Claim for Refund

Action: Modify the action of the Franchise Tax Board in that its denial of the 2001 refund claim is reversed, but its denial of the 2000 refund claim and abatement of interest is sustained.

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Loran Jay Forbes, 299082

2000, \$1,472.00 Tax, \$368.00 Late Filing Penalty

2001, \$1,765.00 Tax, \$441.25 Late Filing Penalty

Action: The Board took no action.

Edith E. Geske, 304296

2000, \$2,021.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Ronald Higgins, 301576

2000, \$3,470.74 Claim for Refund

Action: Sustain the action of the Franchise Tax Board and impose a \$750.00 frivolous appeal penalty.

International Health Institute, LLC, 305199

1999, \$900.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Hernan Jacobo, 304294

2001, \$1,468.00 Tax, \$367.00 Late Filing Penalty, \$367.00 Notice and Demand Penalty

Action: Sustain the action of the Franchise Tax Board and impose a \$5,000.00 frivolous appeal penalty.

Val Jester and Karin Jester, 268505

1999, \$1,475.23 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Luther J. McKinney, 290197

1997, \$666.49 Assessment

Action: Sustain the action of the Franchise Tax Board.

Jesus A. Molina, 304197

2002, \$673.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Nilesh M. Patel and Parul Patel, 296757

2000, \$155.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Louis Sardonis, 304920

1999, \$1,657.20 Assessment

2001, \$2,094.00

Action: Modify the action of the Franchise Tax Board by reducing the proposed assessment to \$18.00 and abate the accuracy-related penalty, otherwise sustain respondent's action for both years and impose a \$2,500.00 frivolous appeal penalty.

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William E. Schenck and Karren D. Schenck, 307185
1999, \$600,169.00 Tax, \$150,042.25 Failure to Furnish Information Penalty
Action: Sustain the action of the Franchise Tax Board.

Max A. Skanes, 310933
2002, \$403.00 Claim for Refund
Action: Reverse the action of the Franchise Tax Board.

Jose A. Vivar, 308141
2003, \$408 Assessment
Action: Sustain the action of the Franchise Tax Board.

K. Lynette Walker, 308140
2000-2003, \$539.40 Claim for Refund
Action: Modify the action of the Franchise Tax Board to reduce the 2003 late payment of tax penalty to \$7.15; modify the interest to reapply payments as directed by appellant; abate interest for 2002 between September 13, 2004 to January 26, 2005; and abate interest for 2003 between August 19, 2004 to January 26, 2005.

King C. Yuen 294756
2001, \$3,619.00 Assessment
Action: Modify the action of the Franchise Tax Board to reduce the additional tax to \$1,809.00, plus applicable interest, otherwise sustain respondent's action.

HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE MATTERS, CONSENT

With respect to the Homeowner and Renter Property Tax Assistance Matters Consent Agenda, upon a single motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board made the following orders:

Frank A. Duarte (Deceased), 310466
2004, \$220.91
Action: Sustain the action of the Franchise Tax Board.

Yvonne E. Guerra, 310026
2004, \$1.00 or more
Action: Sustain the action of the Franchise Tax Board.

Rakhil Losev, 316250
2004, \$1.00 or more
Action: Sustain the action of the Franchise Tax Board.

Margaret E. McLeod (Deceased), 311071
2004, \$1.00 or more
Action: Sustain the action of the Franchise Tax Board.

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Robert Edward Mickey, Jr., 315037

2004, \$356.00

Action: Sustain the action of the Franchise Tax Board.

Lee Mullen, 296205

2004, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Denise L. Roath, 306946

2004, \$347.50

Action: Sustain the action of the Franchise Tax Board.

David Singer, 307419

2003, \$347.50

Action: Sustain the action of the Franchise Tax Board.

Kris Stapleton, 318260

2001, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

Sherry Turner, 315356

2002, \$1.00 or more

2003, \$1.00 or more

Action: Sustain the action of the Franchise Tax Board.

**SALES AND USE TAX MATTERS, REDETERMINATIONS AND DENIALS OF
CLAIMS FOR REFUND, CONSENT**

The Board deferred consideration of the following matter: *Procter & Gamble Paper Products Company, 335295.*

With respect to the Sales and Use Tax Matters, Redeterminations and Denials of Claims for Refund, Consent Agenda, upon a single motion of Ms. Yee, seconded by Mr. Leonard and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board made the following orders:

Romeo H. Mamian, 89000241640 (AS)

7-1-94 to 9-30-97, \$118,487.44

Action: Approve the redetermination as recommended by staff.

Distribution Planning, Inc., 168912 (OHA)

1-1-98 to 12-31-00, \$734,182.58

Action: Approve the redetermination as recommended by staff.

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Fereydoon Kashani, 257691 (AC)

1-1-94 to 6-30-98, \$77,322.38

Action: Approve the redetermination as recommended by staff.

Lifestyle Outdoor Products Corporation, 298666 (OHC)

1-1-01 to 12-31-03, \$565,408.42

Action: Approve the redetermination as recommended by staff.

Flambeau Products Corporation, 235166 (OHB)

7-1-99 to 6-30-02, \$148,087.29

Action: Approve the redetermination as recommended by staff.

The Pep Boys Manny Moe & Jack Cal, 255267 (OHB)

10-4-98 to 6-30-02, \$1,317,419.83

Action: Approve the redetermination as recommended by staff.

Jalhoa, Inc., 326407 (BH)

7-1-04 to 6-30-05, \$50,521.90

Action: Approve the redetermination as recommended by staff.

Chevron U.S.A., Inc., 89000227840 (BH)

1-1-96 to 6-30-96, \$59,179.67

Action: Approve the denial of claim for refund as recommended by staff.

State of California, 333237 (FH)

7-1-03 to 6-30-04, \$194,941.60

Action: Approve the denial of claim for refund as recommended by staff.

Procter & Gamble Paper Products Company, 335295 (OHA)

10-1-01 to 9-30-03, \$73,421.10

Action: The Board deferred consideration of this matter.

Foot Locker Retail, Inc., 336171 (OHB)

12-31-00 to 1-3-04, \$419,561.57

Action: Approve the denial of claim for refund as recommended by staff.

NEC Solutions (America), Inc., 333503 (KH)

4-1-02 to 3-31-05, \$54,942.74

Action: Approve the denial of claim for refund as recommended by staff.

Harrell Motors, Inc., 281763 (KH)

10-1-02 to 7-31-03, \$83,994.35

Action: Approve the denial of claim for refund as recommended by staff.

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Penske Truck Leasing Company, L.P., 298299 (UT)

11-8-04 to 11-8-04, \$51,772.00

Action: Approve the denial of claim for refund as recommended by staff.

Wyle Systems, LLC, 115648 (EAA)

1-1-00 to 12-31-00, \$1,070,033.25

Action: Approve the denial of claim for refund as recommended by staff.

Mc-Donnell Douglas Corporation, 89002086140 (OHA)

1-1-95 to 6-30-95, \$1,336,579.44

Action: Approve the denial of claim for refund as recommended by staff.

Sweetwater Union High School District, 313779 (FH)

7-1-99 to 6-30-02, \$100,000.00

Action: Approve the denial of claim for refund as recommended by staff.

Electroglas, Inc., 238713 (GH)

1-1-00 to 12-31-00, \$695,476.00

Action: Approve the denial of claim for refund as recommended by staff.

Minas Corporation, 289292 (EH)

7-1-01 to 3-31-03, \$56,459.00

Action: Approve the denial of claim for refund as recommended by staff.

Echo Star Satellite Corporation, 316344 (OH)

1-1-03 to 12-31-03, \$91,478.01

Action: Approve the denial of claim for refund as recommended by staff.

SALES AND USE TAX MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, CONSENT

The Board deferred consideration of the following matter: *Procter & Gamble Paper Products Company, 261793.*

With respect to the Sales and Use Tax Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Mr. Parrish, seconded by Mr. Leonard and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 87105 in *Albertson's, Inc., 289973 (OH)*; and, *Daimler Chrysler Corporation, 335217 (CHA)*; Mr. Chiang absent, the Board made the following orders.

G & G Air Conditioning, Inc., 299760 (AA)

7-1-00 to 6-30-03, \$62,826.28

Action: Approve the credit and cancellation as recommended by staff.

Tuesday, March 7, 2006

Infogenesis, 312680 (GH)

1-1-00 to 12-31-02, \$69,409.12

Action: Approve the credit and cancellation as recommended by staff.

Token Automotive, Inc., 334972 (AS)

1-1-05 to 1-31-05, \$131,446.82

Action: Approve the credit and cancellation as recommended by staff.

Viking Office Products, Inc., 333450 (OHC)

7-1-99 to 6-30-02, \$220,017.14

Action: Approve the refund as recommended by staff.

Downey Community Hospital, Foundation, 330406 (AA)

1-1-02 to 6-30-05, \$100,635.13

Action: Approve the refund as recommended by staff.

Celite Corporation, 329546 (GH)

7-1-04 to 9-30-04, \$59,486.66

Action: Approve the refund as recommended by staff.

California Portland Cement Company, 332899 (AP)

10-1-01 to 12-31-04, \$91,373.10

Action: Approve the refund as recommended by staff.

Chevron U.S.A., Inc., 334244 (BH)

10-1-01 to 3-31-03, \$53,298.71

Action: Approve the refund as recommended by staff.

Comcast of Los Angeles, Inc., 335278 (OH)

1-1-04 to 3-31-05, \$311,632.78

Action: Approve the refund as recommended by staff.

Economy Restaurant Fixtures, Inc., 317681 (BH)

1-1-04 to 3-31-04, \$52,745.68

Action: Approve the refund as recommended by staff.

Harris Corporation, 242230 (BH)

1-1-96 to 6-30-99, \$152,861.27

Action: Approve the refund as recommended by staff.

Comcast of California I, Inc., 335282 (OH)

1-1-04 to 3-31-05, \$211,811.06

Action: Approve the refund as recommended by staff.

Tuesday, March 7, 2006

Lucky Stores, Inc., 284744 (OH)

4-30-04 to 7-29-04, \$444,564.64

Action: Approve the refund as recommended by staff.

Gonsalves & Santucci, Inc., 313781 (CH)

4-1-04 to 12-31-04, \$72,997.07

Action: Approve the refund as recommended by staff.

Comcast of Fresno, Inc., 335285 (OH)

1-1-04 to 3-31-05, \$212,368.27

Action: Approve the refund as recommended by staff.

State of California, 225226 (FH)

4-1-00 to 6-30-04, \$254,488.66

Action: Approve the refund as recommended by staff.

Arrk Creative Network Corporation, 282620 (FH)

7-1-01 to 6-30-04, \$132,537.72

Action: Approve the refund as recommended by staff.

Alza Corporation, 288532 (GH)

4-1-99 to 9-30-04, \$543,757.19

Action: Approve the refund as recommended by staff.

Philips Semiconductors, Inc., 333979 (GH)

1-1-00 to 12-31-02, \$181,168.57

Action: Approve the refund as recommended by staff.

Procter & Gamble Paper Products Company, 261793 (OHA)

7-1-01 to 6-30-04, \$188,138.48

Action: The Board took no action.

Comcast of California XIII, Inc., 335289 (OH)

1-1-04 to 12-31-04, \$204,273.05

Action: Approve the refund as recommended by staff.

Affiliated Computer Service, Inc., 311983 (OH)

1-1-04 to 6-30-04, \$82,632.34

Action: Approve the refund as recommended by staff.

Albertson's, Inc., 289973 (OH)

4-30-04 to 7-29-04, \$557,940.44

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105

Tuesday, March 7, 2006

Foot Locker Retail, Inc., 311527 (OHB)

12-31-00 to 1-3-04, \$179,296.75

Action: Approve the refund as recommended by staff.

Powell Electrical Mfg. Company, 329581 (OHC)

10-1-04 to 12-31-04, \$307,364.34

Action: Approve the refund as recommended by staff.

Food Group, Inc., 264510 (OHC)

4-1-01 to 9-30-03, \$118,468.16

Action: Approve the refund as recommended by staff.

Siemens Microelectronics, Inc., 152098 (OHB)

4-1-98 to 3-31-99, \$281,634.33

Action: Approve the refund as recommended by staff.

Continental General Tire, Inc., 306040 (OHB)

1-1-02 to 12-31-02, \$59,889.70

Action: Approve the refund as recommended by staff.

Arrow International, Inc., 308812 (OHB)

1-1-01 to 3-31-05, \$65,045.43

Action: Approve the refund as recommended by staff.

NEC Solutions (America), Inc., 333502 (KH)

4-1-02 to 3-31-05, \$169,909.22

Action: Approve the refund as recommended by staff.

Comcast of California IX, Inc., 335291 (OH)

1-1-04 to 2-31-05, \$291,315.25

Action: Approve the refund as recommended by staff.

Humboldt Wedag, Inc., 290238 (OHC)

10-1-01 to 9-30-04, \$108,804.06

Action: Approve the refund as recommended by staff.

Ford Motor Company, 335218 (OHA)

6-1-05 to 8-31-05, \$342,097.57

Action: Approve the refund as recommended by staff.

Daimler Chrysler Corporation, 335217 (CHA)

7-1-05 to 10-31-05, \$388,099.22

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 87105.

Tuesday, March 7, 2006

Pleasanton Sierra Associates LP., 318427 (OHA)

4-1-05 to 5-11-05, \$54,139.87

Action: Approve the refund as recommended by staff.

Comcast of CA/CO/TX/WA, 335292 (OH)

1-1-04 to 3-31-05, \$1,638,321.50

Action: Approve the refund as recommended by staff.

Nordstrom.Com, LLC, 336195 (OH)

1-1-02 to 9-30-02, \$70,602.73

Action: Approve the refund as recommended by staff.

Ingenico, Inc., 259710 (OHC)

1-1-03 to 3-31-03, \$133,291.24

Action: Approve the refund as recommended by staff.

Gero Vita International, Inc., 330584 (EH)

7-1-97 to 9-30-00, \$57,314.75

Action: Approve the refund as recommended by staff.

Reliant Pharmaceuticals, LLC, 335078 (OHB)

9-1-00 to 3-31-05, \$244,977.99

Action: Approve the refund as recommended by staff.

Lucky Stores, Inc., 284745 (OH)

4-30-04 to 7-29-04, \$1,819,155.28

Action: Approve the refund as recommended by staff.

Maritz, Inc., 288531 (OHA)

7-1-01 to 12-31-02, \$74,711.82

Action: Approve the refund as recommended by staff.

Tokyo Boeki North America, Inc., 307859 (OHA)

1-1-03 to 12-31-04, \$89,306.62

Action: Approve the refund as recommended by staff.

Mannatech, Inc., 330250 (OHC)

4-1-05 to 6-30-05, \$56,053.02

Action: Approve the refund as recommended by staff.

Hush Puppies Retail, Inc., 329548 (OHA)

4-1-05 to 6-30-05, \$50,474.37

Action: Approve the refund as recommended by staff.

Tuesday, March 7, 2006

Suburban Propane L.P., 306074 (OHB)

7-1-99 to 6-30-02, \$194,304.07

Action: Approve the refund as recommended by staff.

Applied Graphics Technologies, Inc., 234394 (AA)

4-1-00 to 12-31-03, \$519,057.21

Action: Approve the refund as recommended by staff.

Joe Picco & Associates, Inc., 333868 (EA)

4-1-02 to 3-31-05, \$78,667.06

Action: Approve the refund as recommended by staff.

Household Automotive Finance, Corporation, 240753 (FH)

10-1-00 to 12-31-02, \$5,256,188.70

Action: Approve the refund as recommended by staff.

NSB Retail Solutions, Inc., 249257 (OH)

7-1-02 to 9-30-04, \$94,916.46

Action: Approve the refund as recommended by staff.

Comcast of California II, LLC, 335293 (OHB)

1-1-04 to 3-31-05, \$320,715.65

Action: Approve the refund as recommended by staff.

Comcast of CA/CO, LLC, 335294 (OHB)

1-1-04 to 3-31-05, \$462,761.17

Action: Approve the refund as recommended by staff.

Chargers Football Company, LLC, 333205 (FH)

1-1-03 to 12-31-04, \$188,282.82

Action: Approve the refund as recommended by staff.

SPECIAL TAXES MATTER, REFUND, CONSENT

With respect to the Special Taxes Matters, Refunds, Consent Agenda, upon motion of Ms. Yee, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board made the following order:

Restaurant Depot Enterprises, LLC, 334433 (ET)

11-22-05, \$190,287.13

Action: Approve the refund as recommended by staff.

Tuesday, March 7, 2006

ADMINISTRATIVE SESSION

ADMINISTRATIVE MATTERS, CONSENT

With respect to the Administrative Matters, Consent Agenda, upon motion of Mr. Parrish, seconded by Mr. Leonard and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board made the following order:

Action: Approve the 2005-06 Superior Accomplishment Award Nominees.

FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS HELD MARCH 7, 2006

William Logue, 303404

Final Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board sustained the action of the Franchise Tax Board.

Eugene Poats, 305198

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board sustained the action of the Franchise Tax Board.

CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARING

Dave H. Miller, 295405

2002, \$1,263.00 Assessment

For Appellant:

No Appearance

For Franchise Tax Board:

Kathleen Cooke, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether respondent properly denied appellants use of the head of household filing status.

Action: Upon motion of Ms. Yee, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board sustained the action of the Franchise Tax Board.

FINAL ACTION ON CORPORATE FRANCHISE AND PERSONAL INCOME TAXES HEARINGS HELD MARCH 7, 2006

Kenneth A. Sauer and Eliza B. Sauer, 308089

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board sustained the action of the Franchise Tax Board and imposed a \$5,000.00 frivolous appeal penalty.

Tuesday, March 7, 2006

Nancy Schultz, 288572

Final Action: Upon motion of Mr. Parrish and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board ordered that the appeal be submitted for decision and brought back to the Board in April 2006 and that the transcript be prepared for Mr. Chiang's review.

Issam I. Kort, 301572

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board sustained the action of the Franchise Tax Board.

Alex H. Farzami and Jennifer Farzami, 308193

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board sustained the action of the Franchise Tax Board.

Stephen D. Moses, 268510

Final Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and duly carried, Mr. Parrish, Mr. Leonard and Ms. Mandel voting yes, Ms. Yee voting no, Mr. Chiang absent, the Board ordered that the late filing penalty for 1992 be relieved, otherwise sustain the action of the Franchise Tax Board.

Danny L. Williams, 257711

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board sustained the action of the Franchise Tax Board and imposed a \$750.00 frivolous appeal penalty.

Michael E. Hodsdon, 305183

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board sustained the action of the Franchise Tax Board and imposed a \$750.00 frivolous appeal penalty.

Christopher Gyorgy, 282946

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board sustained the action of the Franchise Tax Board and imposed a \$750.00 frivolous appeal penalty.

Byron Reynolds, 267947

Final Action: Upon motion of Ms. Yee, seconded by Mr. Parrish and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board sustained the action of the Franchise Tax Board and imposed a \$2,500.00 frivolous appeal penalty.

Tuesday, March 7, 2006

Steven R. Nicholas, 306724

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board sustained the action of the Franchise Tax Board and imposed a \$750.00 frivolous appeal penalty.

David C. Claunch, 281451

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board sustained the action of the Franchise Tax Board and imposed a \$750.00 frivolous appeal penalty.

Shawanda Mann, 307168

Final Action: Upon motion of Ms. Yee, seconded by Ms. Mandel and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board sustained the action of the Franchise Tax Board.

FINAL ACTION ON SPECIAL TAXES APPEALS HEARINGS HELD MARCH 7, 2006

Inland 99 Cents Wholesale, Inc., 236805 (ET)

Final Action: Upon motion of Ms. Mandel, seconded by Ms. Yee and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board ordered that the petition be redetermined as recommended by the Appeals Division. The Board directed staff to offer petitioner a payment plan and to inform the petitioner of the Offer in Compromise Program.

Kretek International, Inc., 253847 (ET)

Final Action: Ms. Yee moved that the petition be redetermined as recommended by the Appeals Division. The motion was seconded by Ms. Mandel but failed to carry, Ms. Yee and Ms. Mandel voting yes, Mr. Parrish and Mr. Leonard voting no, Mr. Chiang absent.

Upon motion of Mr. Parrish and unanimously carried, Mr. Parrish, Ms. Yee, Mr. Leonard and Ms. Mandel voting yes, Mr. Chiang absent, the Board ordered that the appeal be submitted for decision and brought back to the Board in April 2006 and that the transcript be prepared for Mr. Chiang's review.

The Board adjourned at 4:20 p.m.

The foregoing minutes are adopted by the Board on June 27, 2006.

Note: The following cases were removed from the calendar prior to the meeting: *Moon S. Chang and Bong S. Chang, 309178; Robert K. Kent, 287713; Mamta Dhurandhar, 296754; Terry L. Moreland and Peggy J. Moreland, 294805; Terry L. Moreland and Peggy J. Moreland, 286425; Apple Computer, Inc., 152016; and, Alex Bates, 268546.*